

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.852 of 2024

Arising Out of PS. Case No.-102 Year-2023 Thana- SC/ST District- Samastipur

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1. Sanjay Jha son of Ram Sewak Jha Village- Chaksirai Ps- Ujiyarpur Dist- Samastipur
 2. Ranjeet Jha @ Ranjeet Kr. Jha son of Ram Sewak Jha Village- Chaksirai Ps- Ujiyarpur Dist- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Sunita Devi wife of Raj Kumar Das Village- Chaksirai, w.No-6, Ps- Ujiyarpur Dist- Samastipur

... .. Respondent/s

Appearance :
For the Appellant/s : Mr. Brij Bihari Tiwary, Advocate
For the State : Mr. Sadanand Paswan, Spl. P.P.
For Respondent No. 2 : Mr. Bhubneshwar Mahto, Advocate
Mr. Ravi Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 05-08-2025 Heard Mr. Brij Bihari Tiwari, learned counsel for the appellants, Mr. Bhubneshwar Mahto, learned counsel for the respondent No. 2 and Mr. Sadanand Paswan, learned Spl.P.P. for the State.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 10.01.2024 passed by the learned Special Judge SC/ST (POA) Act, Samastipur in connection with SC/ST P.S. Case No. 102 of



2023 (ABP No. 4211 of 2023), F.I.R. dated 17.11.2023 registered under Sections 341, 323, 324, 354, 376, 511, 504, 506,34 of the Indian Penal Code and Sections 3(1)(r)(s) / 3(2) (va) of the Scheduled Castes and Scheduled Tribes Act.

3. According to the prosecution case, appellants are alleged to have abused and assaulted the informant and her family members.

4. Learned counsel for the appellants submits that appellant No. 2 has got clean antecedent and appellant No. 1 got one criminal antecedent other than the present one and he is on bail in the said case. They are innocent and have falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the appellants have not committed any offences as alleged in the F.I.R. The present occurrence took place due to admitted land dispute. In fact, appellant No. 2 and his brother, namely Vinod Jha, have sold some portion of the land to Raj Kumar Das, who is husband of the informant. Informant and her family members have tried to encroach some other land which was situated near the aforesaid land and due to this reason, the present occurrence has taken place.

5. Learned counsel for the appellants further relied



upon the judgment of the Hon'ble Apex Court reported in **(2020) 10 SCC 710** paragraph 18 in case of **Hitesh Verma vs. State of Uttarakhand and Anr.** which reads as follows:-

“18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1)(r) of the Act is not made out.”

6. Paragraph-18 of the aforesaid judgment and in the background of the land dispute, no case is made out under SC/ST Act against the appellants.

7. Learned counsel for respondent No. 2 as well as learned Special Public Prosecutor for the State have vehemently opposed the prayer for bail of the appellants and



submits that the appellants are named in the FIR and there is specific allegation against them in the FIR.

8. After hearing the parties and considering the aforesaid facts that due to admitted land dispute the occurrence had taken place and in view of the aforesaid judgment of the Hon'ble Apex Court, no case is made out under the provisions of Scheduled Castes and Scheduled Tribes Act.

9. Considering the aforesaid, let the appellants, above named, in the event of their arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two surities of the like amount each to the satisfaction of learned Special Judge SC/ST (POA), Samastipur in connection with SC/ST P.S. Case No. 102 of 2023 (ABP No. 4211 of 2023), subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita, 2023 and with other following conditions:-

i. Appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient



reason, his bail bond shall be cancelled by the Court below.

ii. If the appellants tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage it is found that the appellants have concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

10. Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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